

**CENTRAL PUGET SOUND  
GROWTH PLANNING HEARINGS BOARD  
STATE OF WASHINGTON**

**PILCHUCK AUDUBON SOCIETY  
and SNOHOMISH WETLANDS  
ALLIANCE,**

**Petitioners,**

**v.**

**SNOHOMISH COUNTY,**

**Respondent.**

Case No. 94-3-0002

**DISPOSITIVE ORDER  
GRANTING STIPULATED  
MOTION**

**A. PROCEDURAL BACKGROUND**

On May 10, 1994, Petitioners Pilchuck Audubon Society and Snohomish Wetlands Alliance (hereinafter referred to as Pilchuck) and Respondent Snohomish County (the County) filed a Stipulation and Motion for Dispositive Order (the Motion) asking that the Central Puget Sound Growth Planning Hearings Board (the Board) enter a dispositive order resolving the above-captioned case. The Factual Background and Order set forth below are based upon those prepared by the parties and presented to the Board in the Motion.

**B. FACTUAL BACKGROUND**

1. On January 2, 1994, Pilchuck filed a Petition for Review with the Board alleging that the County had failed to adopt interim critical area designations and interim development regulations to protect critical areas, other than aquifer recharge areas, as required by the Growth Management Act (GMA), Chapter 36. 70A RCW.
2. The County filed an answer stating generally that the county has in place a comprehensive scheme of adopted plans and regulations which meet the requirements of GMA for interim critical areas protection, and attached a list of the various elements of that scheme.
3. Pilchuck filed a dispositive motion on March 18, 1994, asking that the Board issue an order holding that county plans and regulations existing prior to the effective date of the GMA cannot meet the requirements of the GMA for designation of critical areas and adoption of interim development regulations which protect critical areas.

1 4. On April 22, 1994, the Board issued an Order on Dispositive Motions in the case  
2 of *Friends of the Law, et al. v. King County*, CPSGPHB No.94-3-0003, in which the  
Board held that a county may use existing plans and regulations to meet the GMA's  
requirements for interim designation and protection of critical areas, and set forth the  
procedural requirements for doing so.

3 5. On April 26, 1994, following briefing and hearing on Pilchuck's dispositive motion  
4 in this case, the Board issued an order denying the motion. The Board concluded that the  
5 reasoning of the decision in *Friends of the Law* applied to this case, but that the record  
6 before the Board was insufficient for it to determine whether or not the County has met  
the procedural requirements for critical area development regulations set forth in that  
decision.

7 6. The parties have reviewed the Board's Order on Dispositive Motions in *Friends of*  
8 *the Law*, and agree that the County has not satisfied all of the procedural requirements set  
9 forth by the Board in that decision with respect to existing plans and regulations on which  
the county relies in this case as meeting the GMA's requirements for interim designation  
and protection of critical areas.

10 7. The County has proposed a schedule setting forth the estimated time period  
11 required for the County to draft critical area designations and development regulations,  
12 provide for appropriate public participation pursuant to RCW 36.70A.020(11) and .140,  
13 and adopt such designations and regulations. Pilchuck agrees that the schedule is  
reasonable for the tasks and public participation required by the GMA.

1 8. The parties presented a proposed Order directing the County to designate and  
4 adopt by ordinance regulations to protect critical areas, where appropriate, and with the  
1 exception of aquifer recharge areas, not later than October 1, 1994.

### 6 C. ORDER

7 Having considered the Stipulation and Motion for Dispositive Order submitted by the  
1 parties, and having reviewed the GMA, particularly 36.70A.170 and .060<sup>1</sup>, and the  
8 Board's prior decisions referenced above. the Board enters the following Order.

1 1. The Motion is granted; the County has not yet designated critical areas and  
2 adopted interim development regulations that protect critical areas, other than aquifer  
3 recharge areas, pursuant to the GMA.

4 2. The County is ordered to designate, where appropriate, critical areas, other than  
5 aquifer recharge areas, and to adopt by ordinance development regulations that protect

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1 Pursuant to RCW 36.70A.170 and .060. interim critical areas designations were to be made and  
development regulations were to be adopted by September 1, 1991. This deadline could have been extended  
to March 1. 1992. pursuant to RCW 36.70A.380.

such designated areas as required by the GMA and consistent with the Board's Dispositive Order in *Friends of the Law*, not later than 5:00 p.m. on September 16, 1994.<sup>2</sup>

As a consequence of this Order, no legal issues remain for the Board to determine. Therefore, the hearing on the merits scheduled to take place in this matter on May 24, 1994, is canceled.

So ORDERED this 16th day of May, 1994.

CENTRAL PUGET SOUND GROWTH PLANNING HEARINGS BOARD

M. Peter Philley  
Board Member

Joseph W. Tovar  
Board Member

Chris Smith Towne  
Presiding Officer

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<sup>2</sup>: Pursuant to the requirements of RCW 36.70A.330 and W AC 242-02-890, the Board anticipates that it will file a motion on September 19, 1994, scheduling a compliance hearing for Monday, October 3, 1994, at 10:00 a.m. at the Board's Seattle office, to determine whether the County has complied with this Order.

